

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 7036 of 2007()

CRIME NO. 139/07 OF CBCID, IDUKKI

PETITIONER

CHINNA SWAMY, AGED 45, S/O. SIVAN,
LAYAM NO.7/354, TOP DIVISION, (POWER HOUSE
DIVISION), TATA TEA PERIYAR CANAL ESTATE,
MUNNAR P.O., CHINNA CANAL VILLAGE,
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SMT.AYSHA YOUSEFF
SMT.MOLLY JACOB

RESPONDENTS:

-
1. STATE OF KERALA, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
 2. DETECTIVE INSPECTOR,
CBCID, IDUKKI.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 20/11/2007, A/W. BA 7208 OF 2007, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.No. 7036 & 7208 of 2007

Dated this the 20th day of November, 2007

ORDER

The petitioners are accused Nos. 4 and 7 in a crime registered for offences punishable, inter alia, under Section 420 I.P.C. The crux of the allegations is that the accused persons had fraudulently resorted to forging of documents etc. for the purpose of clandestinely trespassing into the government land and to reduce the same into their possession. Initially crime was registered only under Section 420 I.P.C. In the course of investigation allegations have been raised, inter alia, under Sections 120B, 468 and 471 I.P.C. Investigation is in progress. The 4th accused had earlier come before this Court with an application for anticipatory bail. The said petition was dismissed as it was submitted that the petitioner is not required to be arrested. Investigation has continued further and the petitioner in B.A.No. 7208 of 2007 has now been arrayed as 4th accused. The petitioner in B.A. 7036 of 2007 is the 7th accused.

2. To put it in a nut shell, the allegation against these petitioners is that the 7th accused, who had got an assignment in his name, has contrary to the terms of the assignment, fraudulently transferred the property on papers to the first accused. The 4th accused had facilitated the said transaction fraudulently by making relevant entries with contumacious intent in the official records.

3. There is no representation for the petitioner in B.A. 7208 of 2007. The counsel for the petitioner in B.A. 7036 of 2007 prays that anticipatory bail may be granted to the petitioners.

4. The learned Prosecutor submits that though the petitioners have been arrayed as accused, the Investigator does not pray for opportunity for custodial interrogation of these petitioners. They can be granted anticipatory bail, but it may be ensured that the petitioners are available for interrogation before the Investigating Officer. The handwriting etc. of the petitioner in B.A. 7208 of 2007 has to be taken. It is in these circumstances submitted by the learned Prosecutor that the State has no objection in anticipatory bail being granted to the petitioners, subject to their co-operation with the Investigating Officer.

5. I am, in these circumstances, satisfied that these petitions can be allowed. Anticipatory bail can be granted to the petitioners subject to appropriate terms and conditions.

6. In the result:

(1) These applications are allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 27.11.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 28.11.07 and 29.11.2007. During this period, the Investigating Officer shall be at liberty to interrogate the petitioners in custody and

take all necessary steps for the proper investigation of the crime. Thereafter they shall make themselves available for interrogation on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 27.11.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 27.11.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.50,000/- each without any surety undertaking to appear before the learned Magistrate on 27.11.2007.

(R. BASANT)
Judge

B.A.No. 7036 & 7208 of 2007

5

tm